

JS 44  
(Rev. 3/99)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Eric Johnson

APR 26 2004

CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Dallas  
(EXCEPT IN U.S. PLAINTIFF CASES)

304 CV - 875 M

**DEFENDANTS**

One Beacon Insurance

Company, General Accident Insurance  
Company of America and David JohnsonCOUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT N/A  
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
TRACT OF LAND INVOLVED.**(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)**

Robert W. Loree 3838 Medical Drive  
Todd Lipscomb Suite 130  
Loree, Hernandez & Lipscomb San Antonio, TX 78229  
(210) 615-0381

Russell J. Bowman  
3131 McKinney Ave,  
Suite 730  
Dallas, TX 75204 (214) 922-0220

**II. BASIS OF JURISDICTION** (PLACE AN "X" IN ONE BOX ONLY)

- 1 U.S. Government Plaintiff  
 2 U.S. Government Defendant

- 3 Federal Question (U.S. Government Not a Party)  
 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

Citizen of This State	<input checked="" type="checkbox"/> PTF	<input type="checkbox"/> DEF	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> PTF	<input checked="" type="checkbox"/> DEF
Citizen of Another State	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Citizen or Subject of a Foreign Country	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>

**IV. NATURE OF SUIT** (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury — Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury — Product Liability	<b>PROPERTY RIGHTS</b>	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 450 Commerce/ICC Rates/etc.
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<b>LABOR</b>	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 830 Securities/Commodities/Exchange
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS:	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 530 General	<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act	<input type="checkbox"/> 881 Agricultural Acts
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 882 Economic Stabilization Act
		<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 780 Other Labor Litigation	<input type="checkbox"/> 883 Environmental Matters
		<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 781 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 884 Energy Allocation Act
		<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 885 Freedom of Information Act
				<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
				<input type="checkbox"/> 950 Constitutionality of State Statutes
				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS:	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 530 General	<input type="checkbox"/> 871 IRS — Third Party 26 USC 7809	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 535 Death Penalty		
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other		
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 550 Civil Rights		
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION** (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE.  
DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY)

Suit on insurance contract removed pursuant to 28 USC 1332 et seq.  
and 28 USC 1441 et seq.

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION  
 UNDER F.R.C.P. 23

**DEMAND \$**

Unspecified

CHECK YES only if demanded in complaint:

 YES  NO**JURY DEMAND:****VIII. RELATED CASE(S)** (See instructions:  
IF ANY)

JUDGE \_\_\_\_\_ DOCKET NUMBER \_\_\_\_\_

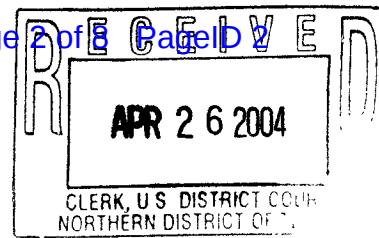
DATE

SIGNATURE OF ATTORNEY OF RECORD

Russell J. Bowman

4/26/04  
FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_



UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ERIC JOHNSON

V.

ONE BEACON INSURANCE COMPANY,  
GENERAL ACCIDENT INSURANCE  
COMPANY OF AMERICA and  
DAVID JOHNSON

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**304 CV - 875 M**

**SUPPLEMENTAL CIVIL COVER SHEET FOR A REMOVED CASE**

## 1. STYLE OF CASE:

## PARTY AND PARTY TYPE

Eric Johnson,  
Plaintiff

**ATTORNEY(S)**

Mr. Robert W. Loree  
State Bar No. 12579200  
Mr. Todd Lipscomb  
State Bar No. 00789836  
Loree, Hernandez & Lipscomb, PLLC  
3838 Medical Drive, Suite 130  
San Antonio, Texas 78229  
210/615-0381  
210/615-1852 (FAX)

One Beacon Insurance Company, General  
Accident Insurance Company of America, and  
David Johnson  
Defendants

Mr. Russell J. Bowman  
State Bar No. 02751550  
Scott, Bowman & Stella  
3131 McKinney Avenue, Suite 730  
Dallas, TX 75204  
214/922-0220  
214/922-0225 (FAX)

## 2. JURY DEMAND

### Was Jury Demand made?

Yes.

3. ANSWER:

Was an Answer made in State Court?

Yes.

4. UNSERVED PARTIES

The following parties have not been served at the time this case was removed: None.

5. NONSUITED, DISMISSED OR TERMINATED PARTIES:

<u>PARTY</u>	<u>REASON</u>
None	N/A

6. CLAIMS OF THE PARTIES:

The filing parties submit the following summary of the remaining claims of each party in this litigation:

<u>PARTY</u>	<u>CLAIM(S)</u>
Plaintiff, Eric Johnson	Plaintiff seeks recovery on a homeowner's policy issued by Defendant for claimed loss due to foundation movement. Plaintiff seeks to recover for that claimed loss, attorney's fees and extra-contractual damages.
Defendants, One Beacon Ins. Co., General Accident Insurance Co. of America and David Johnson	Defendants contend they have no liability for Plaintiff's insurance claim involved in this lawsuit, and that no indemnification is owed under the insurance contract involved in this lawsuit. Defendants General Accident and David Johnson further contend they have no contractual relationship with Plaintiff and therefore no liability to Plaintiff. David Johnson likewise contends he had no involvement with Plaintiff's insurance claim whatsoever, such that he has no liability to Plaintiff. Defendants further contend their liability has not become reasonably clear, such that they have no liability for any of the extra-

contractual claims asserted by Plaintiff.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

ERIC JOHNSON

v.

ONE BEACON INSURANCE COMPANY,  
GENERAL ACCIDENT INSURANCE  
COMPANY OF AMERICA and  
DAVID JOHNSON

U.S. DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
**FILED**

APR 23 2004

**CLERK, U.S. DISTRICT COURT**  
By \_\_\_\_\_ Deputy \_\_\_\_\_

**304 CV - 875 M**

CIVIL ACTION NO. \_\_\_\_\_

**NOTICE OF REMOVAL**

Defendants, One Beacon Insurance Company (“One Beacon”), General Accident Insurance Company of America (“General Accident”) and David Johnson, file this Notice of the Removal of this case from the 160th Judicial District Court of Dallas County, Texas, to the United States District Court for the Northern District of Texas, Dallas Division, pursuant to 28 U.S.C. § 1441 and 1446(b), and would show the Court as follows:

1.

One Beacon, General Accident and David Johnson are Defendants in Cause No. 04-02476-H, entitled “Eric Johnson v. One Beacon Insurance Company, General Accident Insurance Company of America and David Johnson,” currently pending in the 160th Judicial District Court of Dallas County, Texas. That lawsuit was originally filed on March 25, 2004 in the 160th Judicial District Court of Dallas County, Texas.

2.

Defendants first received notice of Plaintiff’s lawsuit when Defendants were served on March 26, 2004 with citation and a copy of Plaintiff’s lawsuit. The thirtieth day after service of the lawsuit would be Sunday, April 25, 2004, a legal holiday. This would give Defendants until Monday, April

26, 2004 to file this removal. As this notice is being filed on Monday, April 26, 2004, this removal timely under 28 U.S.C. § 1446(b).

3.

At the date of commencement of this action and at all pertinent times, Plaintiff was and is a citizen of the State of Texas, being a Texas resident residing in Dallas County, Texas.

4.

At the time that this lawsuit was commenced, One Beacon was a citizen of the States of Pennsylvania and Massachusetts, being a corporation incorporated in the State of Pennsylvania, and having its principal office in the State of Massachusetts. General Accident no longer exists, having been merged into One Beacon on December 6, 1999. However, when it was in existence, General Accident was a citizen of the States of Pennsylvania and Massachusetts, being an insurance company incorporated in the State of Pennsylvania and having its principal place of business in the State of Massachusetts. Defendant David Johnson's citizenship is not considered for jurisdictional purposes, as his joinder in this lawsuit is fraudulent.

5.

This Court has original jurisdiction of this action under 28 U.S.C. § 1332, and it may be removed to this Court, pursuant to 28 U.S.C. § 1441, it being a civil action wherein the amount in controversy exceeds \$75,000.00, exclusive of interest and costs, as between citizens of different states.

6.

As required by Local Rule 81.1, copies of the following documents are attached hereto as Exhibits:

A. An Index of all documents identifying the document and stating the date said

- document was filed in the state court;
- B. A copy of the docket sheet in the state court action;
  - C. Each document filed in the state court action, individually tabbed and arranged in chronological order:
    1. Plaintiff's Original Petition (filed March 25, 2004)
    2. Citation to Defendant One Beacon (issued March 25, 2004);
    3. Citation to Defendant General Accident (issued March 25, 2004);
    4. Citation to Defendant David Johnson (issued March 25, 2004); and
    5. Original Answer of Defendants (filed April 20, 2004).
  - D. A separately signed certificate of interested persons in compliance with local rule 3.1(f).

To the best of the Defendants' knowledge, no other pleading, process or order has been filed or served in the state court lawsuit referred to above.

Wherefore, Defendants pray that this action be removed to this Court from the 160th Judicial District Court of Dallas County, Texas and for further proceedings as may be necessary.

Respectfully submitted,

  
\_\_\_\_\_  
Russell J. Bowman  
Texas State Bar No. 02751550  
3131 McKinney Avenue, Suite 730  
Dallas, TX 75204  
(214) 922-0220  
(214) 922-0225 (FAX)  
ATTORNEY FOR DEFENDANTS

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the above document has been sent, on this 26<sup>th</sup> day of April, 2004, to all counsel of record, as indicated below:

Mr. Robert W. Loree  
3838 Medical Drive  
Suite 130  
San Antonio, Texas 78229

VIA REGULAR MAIL

Russell J. Bowman  
Russell J. Bowman